

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

3:22-cv-1301

| | |
|---|---|
| United States District Court | District MIDDLE |
| Name (under which you were convicted): Jordon Brown | Docket or Case No.: CP-31-CR-577-2015 |
| Place of Confinement: SCI BENNER TOWNSHIP | Prisoner No.: MU-2046 |
| Petitioner (include the name under which you were convicted) Jordon Brown | Respondent (authorized person having custody of petitioner) MORRIS Houser |
| The Attorney General of the State of PENNSYLVANIA | |

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: Count of Common Pleas of Huntingdon County Pennsylvania
- (b) Criminal docket or case number (if you know): CP-31-CR-577-2015
2. (a) Date of the judgment of conviction (if you know): September 2, 2016
- (b) Date of sentencing: December 1, 2016
3. Length of sentence: 18 - 36 years
4. In this case, were you convicted on more than one count or of more than one crime? Yes No
5. Identify all crimes of which you were convicted and sentenced in this case: Criminal Attempt to Commit Manslaughter of a Law Enforcement officer, 2 Counts of Aggravated Assault and Arson
6. (a) What was your plea? (Check one)

| | |
|--|---|
| (1) Not guilty <input type="checkbox"/> | (3) Nolo contendere (no contest) <input type="checkbox"/> |
| (2) Guilty <input checked="" type="checkbox"/> | (4) Insanity plea <input type="checkbox"/> |

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? Plead guilty to Criminal Attempt to Commit Manslaughter of a Law Enforcement officer, 2 Counts of Aggravated Assault and Anger. ~~Other charges~~ Other charges were withdrawn

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes No

8. Did you appeal from the judgment of conviction?

Yes No

9. If you did appeal, answer the following:

(a) Name of court: Supernior Court of Pennsylvania

(b) Docket or case number (if you know): 719 MDA 2017

(c) Result: Denied

(d) Date of result (if you know): November 30, 2017

(e) Citation to the case (if you know): _____

(f) Grounds raised: challenged sentence

(g) Did you seek further review by a higher state court? Yes No

If yes, answer the following:

(1) Name of court: Supreme Court

(2) Docket or case number (if you know): 368 MAL 2018

(3) Result: Denied

(4) Date of result (if you know): October 11, 2018

(5) Citation to the case (if you know): _____

(6) Grounds raised: challenged sentence

(h) Did you file a petition for certiorari in the United States Supreme Court?

Yes No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Court of Common Pleas of Huntingdon County Pennsylvania(2) Docket or case number (if you know): CP-31-CR-577-2015(3) Date of filing (if you know): October 9, 2019(4) Nature of the proceeding: Post Conviction Relief Act ("PCRA")(5) Grounds raised: Counsel was ineffective because Petitioner's plea was involuntary and not intelligently knowing, and Petitioner's sentence was erroneous because the court used the wrong prior record score.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No (7) Result: Denied(8) Date of result (if you know): January 22, 2021

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes No

(2) Second petition: Yes No

(3) Third petition: Yes No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: Review

by the State Supreme Court is ~~discretionary~~ discretionary and unnecessary for exhaustion.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: See Attachment

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Petitioner was sentenced under an improper prior record score. Counsel failed to object when this occurred. The state court determined that Petitioner was not prejudiced by counsel's inaction.

SEE Attachment

(b) If you did not exhaust your state remedies on Ground One, explain why: _____

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: This was a collateral appeal issue.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: PCRA

Name and location of the court where the motion or petition was filed: _____

Court of Common Pleas of Huntingdon County Pennsylvania

Docket or case number (if you know): CP-31-C12-577-2015

Date of the court's decision: January 22, 2021

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes No

(4) Did you appeal from the denial of your motion or petition?

Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Superior Court of Pennsylvania

Docket or case number (if you know): 242 MDA 2021

Date of the court's decision: MAY 26, 2022

Result (attach a copy of the court's opinion or order, if available): Denied

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO: See Attachment

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Petitioner's
plea was unknowing because he pled guilty to a non viable
offense. Plea counsel failed to object when this occurred.

SEE ATTACHMENT

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: PCRA

Name and location of the court where the motion or petition was filed:

Court of Common Pleas of Huntingdon County, Pennsylvania

Docket or case number (if you know): CP-31-CR-577-2015

Date of the court's decision: January 22, 2021

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes No

(4) Did you appeal from the denial of your motion or petition?

Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Supreme Court of Pennsylvania

Docket or case number (if you know): 242 MDA 2021

Date of the court's decision: May 26, 2022

Result (attach a copy of the court's opinion or order, if available): Denied

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two:

GROUND THREE: See Attachment

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): PCNA counsel failed to argue guilty plea counsel's ineffectiveness for failing to raise on direct review Petitioner's pre-sentence request to withdraw his plea. Petitioner attempted to withdraw his plea, the court denied his request but the issue was not raised.

SEE ATTACHMENT

(b) If you did not exhaust your state remedies on Ground Three, explain why: PCNA counsel failed to raise this claim.

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: PCNA counsel failed to raise this claim.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes No

(4) Did you appeal from the denial of your motion or petition?

Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

Plea and PCNA counsel failed to raise this claim

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: See attachment

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): PCNA counsel failed to argue that Petitioner's plea was unlawful since the terms of the contract were violated.

SEE ATTACHMENT

(b) If you did not exhaust your state remedies on Ground Four, explain why: PLEA counsel failed to object and PCNA counsel failed to raise this claim.

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: PCNA counsel failed to raise this claim.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes No

(4) Did you appeal from the denial of your motion or petition?

Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

PCNA counsel failed to raise this claim.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

Grounds three (3) and (4). PCNA counsel and Plea

counsel failed to raise these claims.

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: Grounds three (3)

and four (4) have not been presented in the state court. Plea and

PCNA counsel failed to raise these claims.

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition *

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: Allow him to withdraw his plea,
a new sentencing proceeding, an evidentiary hearing on claims

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on August, 13 2022 (month, date, year).

Executed (signed) on 8-13-2022 (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. _____

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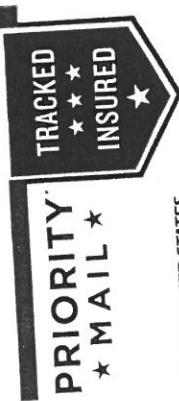


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